Draft Order laid before the Scottish Parliament under sections 35(4) and 36B(4) of the Sheriff Courts (Scotland) Act 1971, for approval by resolution of the Scottish Parliament

D R A F T S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2007 No.

SHERIFF COURT

The Small Claims (Scotland) Amendment Order 2007

Made - - - -	*2007*
Coming into force - -	*14th January 2008*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 35(2), 36B(2) and 43 of the Sheriff Courts (Scotland) Act 1971(**a**) and all other powers enabling them to do so.

In accordance with sections 35(4) and 36B(4) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Small Claims (Scotland) Amendment Order 2007 and comes into force on 14th January 2008.

Amendment of Small Claims (Scotland) Order 1988

2.—(1) The Small Claims (Scotland) Order 1988(**b**) is amended in accordance with the following paragraphs.

(2) In article 2 (proceedings to be small claims)–

(a) for "£750", in both places where it occurs, substitute "£3000"; and

(b) in paragraph (a)–

(i) insert a comma after "interim aliment";

(ii) omit "and" where it third occurs; and

(iii) at the end insert "and actions for personal injury".

(3) After article 2, insert–

"**2A.** In article 2(a), "actions for personal injury" mean actions to which section 17 or 18 of the Prescription and Limitation (Scotland) Act 1973(**c**) applies.".

(**a**) 1971 c.58; section 35(2) was substituted, and section 36B was inserted, by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), section 18. The functions of the Lord Advocate were transferred to the Secretary of State by virtue of article 2 of the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I. 1999/678), and the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(**b**) S.I. 1988/1999(S.191).

(**c**) 1973 c.52; sections 17 and 18 were substituted by the Prescription and Limitation (Scotland) Act 1984 (c.45), section 2.

(4) In article 4(3) (limit on award of expenses in small claims), for "not exceeding £75" substitute the following:–

"_

(a) not exceeding £150, where the value of the claim is £1500 or less; or

(b) not exceeding 10% of the value of the claim, where the value of the claim is greater than £1500".

No effect on claims prior to commencement

3. Nothing in this Order shall have any effect on any small claim commenced before 14th January 2008.

A member of the Scottish Executive

St Andrew's House,
Edinburgh
2007

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Small Claims (Scotland) Order 1988 (S.I. 1988/1999) ("the 1988 Order"). Under the 1988 Order, small claims cannot exceed £750 in amount (exclusive of interest and expenses). The Order raises the limit of £750 to £3000. Actions for personal injury are excluded from the category of actions which must be brought as a small claim. The Order also amends the amount of expenses which the sheriff may award in a small claim where the value of the claim exceeds £200. The sheriff may now, where the value of the claim is £1500 or less, award expenses up to £150. Where the value of the claim is greater than £1500, the sheriff may award expenses up to 10% of the value of the claim (article 2).

The Order does not affect any small claim which was commenced prior to 14th January 2008 (article 3).

DRAFT SCOTTISH STATUTORY INSTRUMENTS

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